

NOTICE OF PROPOSED ACTION

Department of Child Support Services

R-16-03-E

Review and Adjustment of Support Orders

Proposed Permanent Regulations

NOTICE IS HEREBY GIVEN that the Department of Child Support Services (DCSS) has adopted these regulations on an emergency basis effective May 1, 2003; and now proposes to adopt them as permanent regulations amending Division 13 of Title 22 of the California Code of Regulations commencing with Section 115500. These regulations specify procedures necessary for the administration of the child support enforcement program in the area of review and adjustment of child support orders.

Informative Digest/Policy Statement Overview:

Review and Adjustment of Child Support Orders

42 USC, Section 666(a)(10) requires states to have procedures in effect for the review and adjustment of child support orders. More specifically, this law requires the following: 1) Procedures to review and, if appropriate, adjust child support orders at least every three years at the request of either parent, 2) notification not less than once every three years informing parents of the right to request a review and, if appropriate, adjustment of a child support order, 3) review and, if appropriate, adjustment of any child support order if the amount of the order differs from the amount awarded in accordance with the guidelines and, 4) procedures to contest any adjustment.

45 CFR, Section 302.70 provides the State Plan requirements and required State laws for the administration of the child support program. Section 302.70(a)(10) requires state plans to include procedures for the review and adjustment of child support orders.

45 CFR, Section 303.4 provides the standards for program operations for the establishment of support obligations. Section 303.4(c) requires the periodic review and adjustment of all child support orders pursuant to Section 303.8.

45 CFR, Section 303.8 implements 42 USC, Section 666(a)(10) by requiring the following with regard to the review and adjustment of child support orders: 1) States must have in effect a process for the review and adjustment of child support orders including a process for challenging a proposed adjustment; 2) Parents subject to a child support order must be notified not less than once every three years of the right to request a review of the order; 3) States may establish a standard for determining if a change of circumstances warrants an adjustment of the child support order; 4) The

need to provide health care for the child must be considered as a valid reason to adjust the order; 5) A 180-day timeframe in which to conduct the review and adjust the order.

Section 1013, Code of Civil Procedure provides the requirements for process of service by mail or facsimile. This section also provides appropriate timeframes for completion of service within California, outside of California, and outside the United States.

Section 3680.5, Family Code requires local child support agencies to monitor child support cases and seek modifications as necessary.

Section 3763(b), Family Code states that the health insurance coverage assignment ordering health insurance coverage may be modified at any time by the court.

Section 4055, Family Code provides the statewide uniform guidelines for determining child support.

Section 4062, Family Code defines additional support and allows the courts to include this additional support for the children to be paid for specific expenses such as child care costs.

Section 4065, Family Code allows stipulated agreements between both parties to a child support order. This section outlines the conditions for stipulated agreements.

Section 4071, Family Code allows income deductions for parents experiencing financial hardship and provide examples of evidence of financial hardship.

Section 17400.5, Family Code requires local child support agencies to file a motion to modify current child support orders for disabled obligors who meet the Social Security Income resource test, and are receiving Supplemental Security Income/State Supplementary Payments or, but for excess income, would be eligible to receive these benefits.

Section 17401.5, Family Code requires local child support agencies to provide notice of, and information about child support state hearings and the complaint resolution process.

Section 17406(e), Family Code requires local child support agencies to serve a copy of any complaint for support on recipients of support services. The notice shall accompany the complaint that informs the recipient that the local child support agency may enter into a stipulated order resolving the complaint, and that the recipient must assist the prosecuting attorney, by sending all information on the noncustodial parent's earnings and assets.

Section 17406(g), Family Code requires local child support agencies to notify child support recipients of every order established or modified by the local child support agency by sending a copy of the order to the recipient. The notice shall be made within the time specified by federal law after the order has been filed.

Section 17432, Family Code specifies that the court may relieve the defendant from any part of a judgment or order that is based on presumed income or may set aside the order if the defendant's income was substantially different for the period of time during which the judgment was effective compared with the income the defendant was presumed to have.

Section 17516, Family Code specifies that public social service benefits may not be used to satisfy a support obligation.

22 CCR, Division 13, Section 113100 provides the locate requirements and responsibilities of the local child support agencies in locating noncustodial parents.

22 CCR, Division 13, Section 118203 provides the case closure criteria for child support. Included in the criteria for case closure is incarceration or institutionalization of the obligor which results in the obligor being unable to pay support for the duration of the child's minority or the obligor having a medically verified total and permanent disability with no evidence of support potential and no income or assets available to the noncustodial parent which could be levied or attached.

These regulations interpret, make specific, or implement the state and federal laws and regulations cited above by 1) providing the specific requirements for notifying parents of the right to request a review and, if appropriate, adjustment of child support orders; 2) providing the specific requirements for conducting reviews and adjustments; and 3) providing specific timeframes for conducting reviews and adjustments of child support orders.

These regulations will adopt the following Chapter into Title 22, California Code of Regulations:

Chapter 5. Review and Adjustment of Child Support Orders.

- Section 115500 was adopted to specify the notification requirements for the right to request a review and adjustment.
- Section 115510 was adopted to specify the general requirements for conducting a review and adjustment.
- Section 115520 was adopted to specify the required timeframes for conducting a review and adjustment.

Authority and Reference Citations:

AUTHORITY: Sections 17306, 17310 and 17312, of the Family Code.

REFERENCE: Section 1013, Code of Civil Procedure; Sections 3680.5, 3763(b), 4055, 4062, 4065, 4071, 17400.5, 17401.5, 17406(e) and (g), 17432, and 17516 Family Code; 42 U.S.C. 666(a)(10); 45, Code of Federal Regulations, Sections 302.70(a)(10), 303.4(c), and 303.8.

Public Comment Period:

Written public comments presenting statements, arguments, or contentions relating to the text of the proposed regulations will be accepted for a period of forty-five (45) days beginning on August 1, 2003 and ending at 5 p.m. on September 15, 2003. Public comments will be accepted by any of the following means:

1. Mailed to:
Dept. of Child Support Services
Attn: Regulations Coordinator
P.O. Box 419064
Rancho Cordova, CA 95741-9064
2. Faxed to:
Dept of Child Support Services
Attn: Regulations Coordinator
(916) 464-5069
3. E-mailed to the Regulations Coordinator:
Lucila.Ledesma@dcss.ca.gov

Public Hearing:

No public hearing is scheduled. Pursuant to the provisions of Government Code Section 11346.8, any interested party may request that a public hearing be scheduled. The request must be in writing and received at the above addresses for the DCSS Regulations Coordinator no later than fifteen (15) days prior to the close of the public comment period.

Contacts

Copies of documents and general information regarding this rulemaking may be secured by contacting Lucila Ledesma the Regulations Coordinator at 916-464-5087.

In case you are unable to reach the Regulations Coordinator, the DCSS alternative contact person for general information about this rulemaking is Christina Barajas at 916-464-5181.

If you have a substantive question regarding the content of this rulemaking, you may contact Michele Carotti, Supervisor of the Case Management Enforcement Policy Unit at 916-464-5055.

How to Get Copies of Rulemaking Documents:

Copies of the full text of the proposed regulations, an initial statement of reasons, and all information on which this rulemaking is based may be secured from the DCSS Regulations Coordinator at the above addresses. Some of these documents are also available on the Department's public website at www.childsup.cahwnet.gov/.

The full text of a regulation changed pursuant to Government Code Section 11346.8 will be available for at least fifteen (15) days prior to the date on which DCSS adopts the resulting regulation. During that period, it may also be secured from the DCSS Regulations Coordinator at the above addresses.

Once the final statement of reasons becomes available it may also be secured from the contact persons identified above or from the DCSS public website at www.childsup.cahwnet.gov/.

Impact on Individuals and Businesses:

The Department is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

The Department has made an initial determination that the regulations would not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states. These regulations impact the cooperation between the Department and local child support agencies and between local child support agencies and other county administrative departments.

The Department has determined that the regulations would not significantly affect the following:

- (1) The creation or elimination of jobs within the State of California.
- (2) The creation of new businesses or the elimination of existing businesses within the State of California.
- (3) The expansion of businesses currently doing business within the State of California.

The Department has determined that the regulations would not affect small businesses. Small business would not be required to comply with or enforce these regulations nor are they expected to incur either benefits or detriments from them.

Local Mandate:

The Department has determined that the regulations would not impose a mandate on local agencies or school districts.

Fiscal Impacts:

- A. Fiscal Effect on Local Government: None.
- B. Cost or Savings to Any State Agency: None.
- C. Cost or Savings in Federal Funding to the State: None.
- D. Other Nondiscretionary Costs or Savings Imposed on Local Agencies: None.

Impact on Housing Costs:

The Department has determined that these regulations will have no impact on housing costs.

Consideration of Alternatives:

The Department must determine that no reasonable alternative considered by the Department or that has otherwise been identified or brought to the attention of the Department would be more effective in carrying out the purpose for which these regulations are being implemented or would be as effective and less burdensome to affected private persons than these regulations.

(1) Adopt Chapter 5, and Section 115500 to read as follows:

Chapter 5. Review and Adjustment of Child Support Orders.

Section 115500. Notification of the Right to Request Review and Adjustment.

(a) Each local child support agency shall provide written notice, at least once every 3 years, of the right to request a review to seek an upward or downward adjustment of a child support order, or an adjustment to include a provision for medical support.

(b) The notice shall be sent to the last known address of each party to a child support order with a current support obligation subject to enforcement by the local child support agency.

(c) The notice shall notify parties of all of the following:

(1) The right to request a review of the current child support obligation for an upward or downward adjustment, or an adjustment to include a provision for medical support.

(2) The requirement that the local child support agency assist each party to a child support order in adjusting child support orders when a change in circumstances exists as specified in Section 115510(c), (d), or

(e). The notice shall include examples of such circumstances as specified in Section 115510(c), (d), or (e).

(3) The timeframe for the local child support agency to file a motion for modification or order to show cause if one of the changes in circumstances exists as outlined in Section 115510(c).

(4) The timeframe for the local child support agency to respond to a request for review and adjustment if the request is denied.

(5) Notification that a request for review and adjustment in an interjurisdictional case, such as a case involving another state, may need to be forwarded to the agency having jurisdiction over the case, for review and adjustment.

(6) The right of the requesting party to file a motion for modification or order to show cause on his or her own if the local child support agency denies a request for review and adjustment. The notice shall inform the obligee/obligor of the option to obtain the assistance of the Family Law Facilitator and shall include the address and public telephone number for the Family Law Facilitator.

(7) The availability of the complaint resolution and state hearing processes pursuant to Chapter 10.

Authority cited: Sections 17306, 17310 and 17312 Family Code
Reference: Section 17401.5, Family Code; 42 U.S.C 666(a)(10); 45 CFR 302.70(a)(10), 303.4(c), and 303.8.

(2) Adopt Section 115510 to read as follows:

Section 115510. Requirements for Conducting Review and Adjustment

(a) Local child support agencies shall review cases to determine if a change in circumstances exists which could alter the amount of child support ordered by the court under the guideline (Family Code Section 4055) when all of the following conditions are met:

(1) Upon oral or written request of a party to a child support order with a current child support obligation; and

(2) The change in circumstances which could alter the amount of the child support is reasonably expected to last more than three months; and

(3) The local child support agency is in receipt of either party's current income and expense information.

(b) When the local child support agency becomes aware, during communication with a party to a child support order with a current child support obligation, that a change in circumstances exists which could alter the amount of the support order, the local child support agency shall ask if the party wants the local child support agency to review the order and, if appropriate, seek an adjustment.

(c) Any change in circumstances or combination of change in circumstances which would result in a change in the child support order, either upward or downward, by at least 20 percent or \$50, whichever is less, shall be considered cause to file a motion for modification or order to show cause to adjust the child support order. These factors may include, but are not limited to:

(1) A change in the obligee or obligor's employment status or income.

(2) A change in parenting time or custody. A court order showing a change in parenting time shall be prima facie evidence of a change in the parenting time.

(3) A change in costs incurred related to the following additional child support costs:

(A) Child care costs related to employment or reasonably necessary education or training for employment skills.

(B) Reasonable uninsured health care costs for the child(ren) as provided in Section 4063, Family Code.

(C) Costs related to the educational or other special needs of the child(ren).

(D) Travel expenses for visitation.

(4) A financial hardship on the obligee or obligor, as defined in Family Code Section 4071, that did not exist at the time the order was established or last adjusted.

(5) The obligee or obligor begins or ceases receiving Unemployment Insurance Benefits, State Disability Insurance, or Worker's Compensation.

(6) Additional child support orders exist for which the obligor is responsible, which were not taken into account when the order of issue was established or last adjusted.

(7) A change in the obligee or obligor's health insurance premium.

(8) The release of the obligee/obligor from incarceration in a county jail, state or federal prison, or court-ordered rehabilitation facility.

(9) The release of the obligee/obligor from a psychiatric facility.

(d) A determination that a child support order does not include a provision for medical support shall be cause for an automatic review and adjustment whether or not the review has been requested by the obligee or obligor.

(e) If the local child support agency becomes aware of any change in circumstances listed below, the local child support agency shall conduct a review of the child support order to determine if the change in circumstance would result in a 20 percent or \$50 change in the child support order. Any of these changes shall be considered cause for review and adjustment whether or not the review has been requested by a party to the child support order and shall be verified by the local child support agency. The circumstances include:

(1) The obligor or obligee is incarcerated in a county jail, state or federal prison, or court-ordered rehabilitation facility and there is no evidence of support potential.

(2) The obligor begins or ceases receipt of Supplemental Security Income/State Supplementary Payment, CalWORKs, or any other public assistance program for which eligibility is determined on the basis of need. If the obligor's sole income is Supplemental Security Income/State Supplementary Payment, the local child support agency shall modify the current order to zero, by notice of

motion, order to show cause, or stipulation, and refer to the case closure

regulations at Section 118203(a)(5)(D) to determine if case closure is appropriate,

(3) The obligor's sole income is Supplemental Security Income/State Supplementary Payment, CalWORKs, or any other public assistance program for which eligibility is determined on the basis of need, and that income was used in determining the amount of the support order. If the obligor's sole income is Supplemental Security Income/State Supplementary Payment, the local child support agency shall modify the current order to zero by notice of motion, order to show cause, or stipulation, and refer to the case closure regulations at Section 118203(a)(5)(D) to determine if case closure is appropriate.

(4) The obligor has a medically verified total and permanent disability with no evidence of support potential. In this situation, the local child support agency shall refer to the case closure regulations at Section 118203(a)(5)(C) to determine if case closure is appropriate.

(5) The obligor is institutionalized in a psychiatric facility and has no evidence of support potential. In this situation, the local child support agency shall refer to the case closure regulations at Section 118203(a)(5)(A) to determine if case closure is appropriate.

(6) The child support order was based on presumed income, and the actual income or income history of the obligor becomes known.

(7) The obligor or obligee's health insurance premium was not included in the guideline (Family Code Section 4055) calculation when the child support was established or last adjusted.

(8) The obligor or obligee is a reservist in the military and is called to active duty.

(f) In conducting the review to determine if any of the adjustment criteria set forth in subsection (c), (d) or (e) are met, the local child support agency shall require the requesting party, if appropriate, to provide relevant income and expense information. In addition, the local child support agency shall request income and expense information from the nonrequesting party or parties. The local child support agency shall not delay the review or filing of the motion for modification or order to show cause due to failure of the nonrequesting party to provide income and expense information.

(g) If the local child support agency does not receive income and expense information from the requesting party, but receives income and expense information from the nonrequesting party, the local child support agency shall treat the income and expense information received from the nonrequesting party as a request for a review and adjustment and proceed with the review.

(h) If the local child support agency determines that a change in circumstances exists as specified in subsection (c), (d), or (e), and the change is reasonably expected to last for more than three months, the local child support agency shall file a motion for modification or order to show cause to seek an adjustment of the order, either upward or downward, as appropriate, or for inclusion of a medical support provision. In lieu of filing a motion for modification or order to show cause, the local child support agency may enter into a stipulation with all necessary parties and present the stipulation to the court.

(i) Notwithstanding subparagraph (h), if an order under review was based on presumed income and meets the criteria set forth in Section 17432 of the Family Code for setting aside judgments, the local child support agency shall pursue a set aside of the child support order.

Authority cited: Sections 17306, 17310 and 17312 Family Code

Reference: Sections 3680.5, 3763(b), 4055, 4062, 4065, 4071, 17400.5, 17406(e), 17432, and 17516 Family Code; 42 U.S.C 666(a)(10), and 45 CFR 302.70(a)(10), and 303.8.

(3) Adopt Section 115520 to read as follows:

Section 115520. Timeframes for Conducting Review and Adjustment.

(a) Within 10 business days of receiving a request for review, the local child support agency shall notify the requesting party in writing, that in order to proceed with the review, the requesting party must provide specified income and expense information. As part of this notice, the local child support agency shall provide any mandatory Judicial Council forms that the requesting party will need to complete. The local child support agency shall inform the requestor that no action will be taken on the request until the income and expense information is returned to the local child support agency and that the effective date of the request will be the date the income and expense information is received by the local child support agency.

(b) The local child support agency shall request income and expense information from the nonrequesting party at the same time income and expense information is requested from the requesting party, and within the same timeframe specified in subsection (a) above.

(c) Within 10 business days of receipt of the necessary income and expense information, the local child support agency shall:

(1) Calculate the guideline (Family Code Section 4055) amount based on the income and expense information available on the obligee/obligor to determine if a change in the amount of the support order would result in a 20 percent or \$50 change, either upward or downward, whichever is less, OR:

(2) If the income and expense information from the requesting party is incomplete, notify the requesting party that complete income and expense information is required prior to the commencement of a review of the child support order.

(d) If the nonrequesting party fails to provide the income and expense information and the local child support agency has no income and expense information in the case file and is unable to locate information on the nonrequesting party through automated locate tools and the Federal Case Registry, within 10 days of receipt of the requesting party's income and expense information, the local child support agency shall presume that there is a 20 percent or \$50, whichever is less, upward or downward change in the child support order and proceed with the adjustment process.

(e) Within 10 business days of the determination that a change in circumstances exists as specified in Section 115510(c), (d), or (e), the local child support agency shall file with the court, a motion for modification or order to show cause. The local child support agency shall serve the notice of motion for modification or order to show cause on the non-requesting party at least 30 calendar days prior to the scheduled hearing date. Service shall be conducted in accordance with the requirements of Section 1013, Code of Civil Procedure. At least 30 days prior to the hearing, the local child support agency shall provide the requesting party with a notice of the time, date, and location of the hearing. The notice to the requesting party shall be sent in accordance with the requirements of Section 17406, Family Code.

(f) If the facts set forth in the review and the income and expense information do not indicate that a change in circumstances exists as specified in Section 115510 (c), (d), or (e), the local child support agency shall send written notice to the requesting party. The notice shall be sent within 10 business days of the determination that the request does not satisfy the change in circumstances criteria, and shall include the following:

(1) The local child support agency's determination that it will not pursue an adjustment of the child support order.

(2) An explanation of why the request for review does not satisfy the adjustment criteria.

(3) A statement that the party may file his or her own notice of motion or order to show cause for adjustment of the child support order.

(4) A statement informing the requesting party of the option to obtain the assistance of the Family Law Facilitator, including the address and public telephone number for the Family Law Facilitator.

(5) Information on the availability of the complaint resolution and state hearing processes pursuant to Chapter 10.

(g) The local child support agency shall send a copy of the adjusted court order to the obligor and the obligee within 10 business days after receipt of the order from the court, unless the court orders otherwise.

(h) If at any time the local child support agency determines that a valid address is not available for the nonrequesting party, the local child support agency shall do all of the following:

(1) Notify the requesting party that no valid address is available on the nonrequesting party and the review and adjustment process will not proceed until a valid address is located.

(2) Access all appropriate locate tools available per Section 113100 within 30 days.

(3) If the local child support agency is unable to locate the nonrequesting party in accordance with Section 113100, the local child support agency shall terminate the review and adjustment process immediately.

(i) Once the nonrequesting party has been located, the review and adjustment timeframes resume effective with the date an address for the nonrequesting party is located.

Authority cited: Sections 17306, 17310 and 17312 Family Code

Reference: Section 1013, Code of Civil Procedure; Section 4055, 17401.5, and 17406(g) Family Code; 42 U.S.C 666(a)(10), and 45 CFR 302.70(a)(10) and 303.8.

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- (4) Repeal Manual of Policies and Procedures Section 12-223.2 through .22 as follows:

12-223 PROGRAM PERFORMANCE STANDARDS – ESTABLISHMENT AND MODIFICATION OF CHILD SUPPORT ORDERS

- .1 The district attorney shall attempt to establish a child support order for cases in which a child support order does not exist.

.11 When petitioning the court for child support, the district attorney shall use the statutory child support guidelines in effect at that time to determine the amount of child support sought.

.12 Establishment of child support orders shall also be done in accordance with the standards specified in Section 12-106.

~~.2 Upon a written request for modification of a child support order the district attorney shall:~~

~~.21 Review the case.~~

~~.22 Respond to the request in writing within 90 calendar days of the date the request is postmarked.~~

NOTE: Authority cited: Sections 10553, and 10554, ~~11475, and 11479.5~~, Welfare and Institutions Code.

Reference: ~~Sections 11479.5 and 15200.8, Welfare and Institutions Code; 45 CFR 302.50(a) and 303.4(b) and (d); Section 4720.1, California Civil Code; and 42 U.S.C. 466(a)(10)(A).~~

INITIAL STATEMENT OF REASONS

Assembly Bill (AB) 196, (Chapter 478, Statutes of 1999), and Senate Bill (SB) 542, (Chapter 480, Statutes of 1999), created the new Department of Child Support Services (Department) within the California Health and Human Services Agency to administer all services and perform all functions necessary to establish, collect and distribute child support in the State of California. This legislation also designated the Department as the single state organizational unit that has the duty to administer the Title IV-D state plan for securing child and spousal support, medical support, and determining paternity.

Prior to the enactment of AB 196 and SB 542, the California Department of Social Services (CDSS) had statutory responsibility for these services, functions, and duties. CDSS utilized regulations contained in its Manual of Policies and Procedures (MPP), which is incorporated by reference into Title 22, California Code of Regulations (CCR), to administer the child support program. In addition to the MPP, CDSS utilized policy letters to clarify its regulations and those of the federal Office of Child Support Enforcement. Section 17310, Family Code (FC), specifies that CDSS' regulations are to remain in effect and be fully enforceable by the Department, and permits the Department to readopt, amend, or repeal CDSS' regulations as necessary and appropriate. Section 17306(e), FC, permits the Department to implement applicable provisions of Division 17 of the FC through Family Support Division letters or similar instructions from the Director until December 31, 2004. The Department will continue to utilize the MPP and policy letters in its administration of California's child support program until such time as it adopts its own regulations for inclusion in new Division 13, of Title 22, CCR.

Section 17306(b), FC, requires the Department to develop uniform forms, policies and procedures to be employed statewide by all local child support agencies. This statute also provides the authority to adopt the regulations on an emergency basis. These regulations are necessary to implement Section 17306, FC.

In accordance with Section 17306(d), FC, the Department consulted with the California Family Support Council, the California State Association of Counties, labor organizations, custodial and noncustodial parent advocates, child support commissioners, family law facilitators, and relevant committees of the Legislature in developing the policies that are reflected in these regulations. This collaboration resulted in the Policies, Procedures, and Practices (P3) Project. The explicit purposes of the P3 Project were to: 1) make recommendations to the Department on how to implement new state requirements; 2) design a child support state hearing process; and 3) improve customer services throughout the California Child Support Program. The explicit purpose of the P3 Project was to encourage interested parties to sit down together, in some instances for the first time, to discuss their concerns, refine ideas, and attempt to come to consensus on uniform policies, procedures, and practices that the Department could incorporate into its regulations.

These regulations interpret and implement Section 1013, Code of Civil Procedure; Sections 3680.5, 3763(b), 4055, 4062, 4065, 4071, 17400.5, 17401.5, 17406(e) and (g), 17432, and 17516 FC; 42 United States Code (USC), Section 666(a)(10), and 45 Code of Federal Regulations (CFR), Sections 302.70(a)(10), 303.4(c), and 303.8 by specifying procedures necessary for the administration of the child support enforcement program in the area of review and adjustment of child support orders.

Chapter 5, Review and Adjustment

Chapter 5 has been adopted and entitled “Review and Adjustment” to designate the chapter within Division 13 in which review and adjustment requirements and procedures are contained. This entire set of regulations establishes the procedures required by 42 USC, 666(a)(10), 45 CFR, Section 302.70(a)(10), 303.4(c), and 303.8. In developing the proposed regulations, the Department, the Child Support Directors Association (CSDA), the Office of Child Support Enforcement, and various stakeholders met and, through a collaborative process, reached a consensus on the process and procedures, including timeframes, for the review and adjustment of child support orders in accordance with Section 17306(d), FC. Many of the requirements contained in this chapter were previously contained in Family Support Division Letter No. 94-02. This letter will become obsolete with the adoption of these regulations. These regulations also ensure that local child support agencies seek modifications when needed as required by Section 3680.5, FC and that uniform policies and procedures are employed by the local child support agencies in accordance with Section 17306(b), FC.

Section 115500. Notification of the Right to Request Review and Adjustment.

This section has been adopted to interpret, implement, and make specific Sections 17401.5, FC; 42 United States Code, 666(a)(10), and 45 CFR Sections 302.70(a)(10), 303.4(c), and 303.8 by specifying the requirements necessary for notification of the right to request a review and adjustment of a child support order.

Subsection (a) has been adopted to specify the requirement that all local child support agencies are responsible for notifying all parents subject to a current California child support order, of their right to request a review of their current support order at least once every three years. The adoption of this subsection is necessary to implement federal law at 42 USC, Section 666(a)(10)(C) and 45 CFR, Section 303.4(c) and 303.8(b)(6).

Subsection (b) has been adopted to specify that the notice referred to in subsection (a), shall be sent to the last known address of each party to a child support order. The adoption of this subsection is necessary to implement federal law at 42 USC, Section 666(a)(10). This regulation is also necessary to specify where the notice must be sent to ensure that every effort is made to contact each party subject to a child support order.

Subparagraphs (c)(1) through (7) have been adopted to specify the information that is required to be contained in the notification referred to in subsections (a) and (b). The

contents of this notice are intended to give parties information on the LCSAs role and responsibilities in conducting the review and adjustment, the right of a party to seek an adjustment on his or her own, the availability of the Family Law Facilitator, and the right to file a complaint if the party is dissatisfied with the LCSAs actions. The adoption of these subparagraphs are necessary to implement federal and state law at Section 17401.5, FC; 42 USC 666(a)(10), and 45 CFR 303.8

Section 115510. Requirements for Conducting Review and Adjustment.

This section has been adopted to interpret, implement, and make specific California Code of Regulations, Title 22, Division 13, Section 118203(a)(5); Sections 3680.5, 3763(b), 4055, 4062, 4065, 4071, 17400.5, 17406(e), 17432, and 17516 FC; 42 USC 666(a)(10), and 45 CFR 302.70(a)(10), and 303.8 by specifying when a review and adjustment is required and the type of information required in order to complete a review and adjustment.

Subsection (a) has been adopted to specify that local child support agencies must review cases to determine if a change in circumstances exists that could affect the amount of child support ordered by the court in accordance with the statewide uniform guideline, Section 4055, FC. The adoption of this subsection is necessary to be in compliance with federal and state laws at Section 3680.5 FC, 42 USC 666(a)(10), and 45 CFR 302.70(a)(10). This subsection provides a preface to subparagraphs (1)-(3) which make specific the conditions which must be met by the requesting party in order for a local child support agency to review a case for possible adjustment.

Subparagraphs (a)(1) through (3) have been adopted to specify the three conditions that, if met, would require a local child support agency to review a child support case for possible adjustment : 1) an oral or written request from a party to a child support order; 2) the change in circumstances must be expected to last more than three months; and 3) the receipt of either party's income and expense information. These subparagraphs are necessary to implement 42 USC, 666(a)(10); 45 CFR, Sections 302.70(a)(10) and 303.8.

Subsection (b) has been adopted to specify the requirement that local child support agencies offer child support services when a party to any child support order indicates a change that could be the basis of an adjustment but the party has not directly requested a review of the support order . The adoption of this subsection is necessary to ensure that any party to a child support order is aware of the availability of child support services when an adjustment may be necessary.

Subsection (c) has been adopted to specify the requirement that local child support agencies file a motion for modification or order to show cause when the review shows a change in the support order of 20 percent or \$50, whichever is less, upward or downward. The adoption of this subsection is necessary to establish a standard for determining if a child support order should be modified from the existing order. 45, CFR, Section 303.8(c) expressly provides that state's may establish a quantitative

standard based upon a fixed dollar amount or percentage. This regulation implements that provision.

Subparagraphs (c)(1) through (9) provide examples of changes in circumstances that could result in a change in the order of 20 percent or \$50. These items are taken into consideration in calculating support under the statewide uniform guidelines, Section 4055, FC. Subparagraph (3) implements Section 4062, FC; subparagraph (4) implements Section 4071, FC.

Subsection (d) has been adopted to specify that if a child support order does not include a provision for medical support, the order shall automatically be reviewed for adjustment. The adoption of this subsection is necessary to be in compliance with 45 CFR, Section 303.8(d) and Section 3763(b), FC which allows for the modification of orders where a provision for medical support had not been included.

Subsection (e) has been adopted to specify that local child support agencies shall initiate reviews and adjustments of child support cases, regardless of whether or not the review has been requested. The adoption of this subsection is necessary when the change of circumstance is such that the parent is effectively unable to make a formal request, or the circumstances so obviously warrant a change in the order because the obligor clearly could not meet the obligation. In addition, the adoption of this subsection is necessary to be in compliance with Section 3680.5, FC.

Subparagraph (e)(1) has been adopted to specify that incarceration of the obligor or obligee, with no support potential, is cause for review and adjustment of a child support order. The adoption of this subparagraph is necessary to comply with Section 3680.5, FC.

Subparagraph (e)(2) has been adopted to specify that commencement or discontinuance of certain public assistance programs is cause for review and adjustment of a child support order. The adoption of this subparagraph is necessary to comply with Sections 17400.5 and 17516 FC. Furthermore, California Code of Regulations, Title 22, Division 13, Section 118203(a)(5)(D) requires case closure if the noncustodial parent has no earnings or assets which could be levied or attached for support and the noncustodial parent cannot pay support for the duration of the child's minority because the noncustodial parent's sole income is derived from Supplemental Security Income/State Supplementary Payment.

Subparagraph (e)(3) has been adopted to specify that if the sole income that was used in determining the amount of the obligor's support order was based on income from a public assistance program, and that sole income is Supplemental Security Income/State Supplementary Payment, or any other public assistance program, the local child support agency shall modify the order. The adoption of this subparagraph is necessary to comply with Section 17400.5 and 17516, FC. This regulation makes a cross reference to the case closure guidelines. The reference to case closure is necessary because cases in which the obligor's sole income is derived from Supplemental Security

Income/State Supplementary Payment must be closed pursuant to California Code of Regulations, Title 22, Division 13, Section 118203(a)(5)(D).

Subparagraph (e)(4) has been adopted to specify that local child support agencies must review child support orders for adjustment when it has been determined that the obligor has a medically verified total and permanent disability with no evidence of support potential. This subparagraph also refers to the case closure regulations. The adoption of this subparagraph is necessary to comply with California Code of Regulations, Title 22, Division 13, Section 118203(a)(5)(C) which may require case closure in this situation.

Subparagraph (e)(5) has been adopted to specify that local child support agencies must review child support orders for adjustment when it has been determined that the obligor is institutionalized in a psychiatric facility and has no evidence of support potential. This subsection also refers to the case closure regulations. The adoption of this subparagraph is necessary to comply with California Code of Regulations, Title 22, Division 13, Section 118203(a)(5)(A) which may require case closure in this situation.

Subparagraph (e)(6) has been adopted to specify that local child support agencies must review child support orders for adjustment when it has been determined that an order was based on presumed income and the actual income becomes known. Because courts may allow child support orders to be based on presumed income when the actual income of the obligor is unknown, it is important that local child support agencies review these types of orders upon becoming aware of the obligors actual income. This is necessary to ensure correct and accurate orders are being issued.

Subparagraph (e)(7) has been adopted to specify that local child support agencies must review child support orders for adjustment if the obligor or obligees health insurance premium was not considered when the child support was established or last adjusted. The adoption of this subparagraph is necessary to implement Section 3763(b), FC.

Subparagraph (e)(8) has been adopted to specify that local child support agencies must review child support orders for obligee/obligor reservists in the military when called to active duty. The adoption of this subparagraph is necessary because reservists called to active duty may experience a change in salary if required to take a leave of absence from current employment. This could result in a reduction or increase in salary.

Subsection (f) has been adopted to require local child support agencies to obtain income and expense information from the requesting party, if appropriate, to determine if any of the adjustment criteria in subsection (c), (d), or (e) apply. The local child support agency is required to request such information from the nonrequesting party. However, this subsection specifies that the local child support agency shall not delay moving forward with a review and adjustment due to the failure of the nonrequesting party to provide the income and expense information. In fact, if the local child support agency is initiating a review and adjustment pursuant to the provisions of subsection (e), the local child support agency is not required to obtain income and expense information

from either party because the local child support agency is required to verify the change in circumstance that warrants the review and adjustment.

The adoption of this subsection is necessary to enable the local child support agency to proceed with a review and adjustment. In order to do this, the local child support agency needs income and expense information from at least one party unless the local child support agency is acting on a review and adjustment due to a change in circumstances as outlined in subsection (e), in which case income and expense information is not required. In many cases the nonrequesting party fails to return the necessary income and expense information. This subsection allows the local child support agency to proceed with the review once the requesting party submits the necessary information.

Subsection (g) has been adopted to specify that if the requesting party does not respond to the request for income and expense information, but the nonrequesting party does, the local child support agency shall then consider receipt of the nonrequesting party's income and expense information as a request for a review and adjustment and proceed with the review. The adoption of this subsection is necessary to carry out the goal of this regulatory process by ensuring accurate orders. This subsection also implements Section 3680.5, FC.

Subsection (h) has been adopted to specify that if the local child support agency determines that the change in circumstances which results in the change in the support order is expected to last for more than three months, the local child support agency must file a motion for modification or order to show cause or prepare a stipulation order to modify the support. The adoption of this subsection is necessary to ensure that local child support agencies take appropriate action upon becoming aware of the need for a review and adjustment to a child support order. The three month time period is a reasonable amount of time for a change in circumstances to remain in effect in order to warrant an adjustment to the order. This subsection also implements Section 4065, FC relating to stipulations of child support orders.

Subsection (i) has been adopted to specify that local child support agencies must pursue a set aside or relief from support orders instead of an adjustment when the support order was based on presumed income and a set aside would be appropriate. This subsection is necessary to interpret and implement Section 17432, FC.

Section 115520. Timeframes for Conducting Review and Adjustment.

This section has been adopted to interpret, implement, and make specific Section 1013, Code of Civil Procedure; Sections 4055, 17401.5, and 17406(g) FC; 42 USC 666(a)(10), and 45 CFR 302.70(a)(10) and 303.8 by specifying the timeframes for acting on a review and adjustment and the receipt of specific information necessary to conduct the review and adjustment.

Subsections (a) and (b) have been adopted to specify that within 10 business days of receiving a request for a review and adjustment, the local child support agency seek income and expense information from both the requesting and nonrequesting parties. The adoption of these subsections are necessary to ensure that the local child support agency is in receipt of the most current income and expense information in order to determine if a change in circumstances has occurred since the support order was last established. The local child support agency is unable to move forward without at least one party's income and expense information. The 10 business day timeframe is considered a reasonable amount of time for the local child support agency to act on the request.

Subsection (c) has been adopted to establish a 10 business day timeframe for the local child support agency to act upon receipt of the income and expense information from the party(ies). The adoption of this subsection is necessary to ensure consistent and uniform applications statewide and to ensure that the review and adjustment process is conducted within the timeline requested by 45, CFR, Section 303.8(e).

Subparagraph (c)(1) has been adopted to require local child support agencies to conduct a child support calculation to see if the change in circumstances results in a change in the order requiring the local child support agency to adjust the order. The adoption of this subparagraph is necessary to ensure that the local child support agencies use the statewide uniform guideline pursuant to Section 4055, FC.

Subparagraph (c)(2) has been adopted to specify that if the local child support agency receives an incomplete income and expense declaration from the requesting party, the local child support agency must notify the requestor that a complete income and expense declaration must be received prior to the commencement of the review. The adoption of this subparagraph is necessary to ensure the receipt of complete income and expense declarations. The local child support agency cannot act on incomplete income and expense declarations.

Subsection (d) has been adopted to specify that if the nonrequesting party fails to provide the income and expense information and the local child support agency does not have this information on file and is unable to obtain this information through automated locate efforts, within 10 days of receipt of the requesting party's income and expense information, the local child support agency shall presume that a 20 percent or \$50, upward or downward, change in the child support order, whichever is less, exists and shall proceed with the adjustment process. This subsection is necessary to provide a policy for handling difficult cases where the nonrequesting party is uncooperative and no income and expense information is available to even make a presumption on the nonrequesting party's situation. This is necessary to ensure that the nonrequesting party cannot stand in the way of getting the issue before the court for a determination of whether the child support order is accurate.

Subsection (e) has been adopted to specify the timeframes and requirements for filing the proper judicial forms with the courts should the local child support agency determine

that the case qualifies for an adjustment, the timeframes for service of the nonrequesting party, and timeframes for notification of the hearing to the requesting party. This subsection is necessary to ensure that the local child support agency acts timely to file a notice of motion or order to show cause once a determination of a change in circumstances exists and to comply with the timeframes required in 42, USC, Section 666(a)(10)(A)(ii).

Subsection (f) has been adopted to specify that the local child support agency is required to send written notice to the requesting party if it is determined that a change in circumstances does not exist. The written notice shall be sent within 10 business days of the determination that a change in circumstances does not exist. This subsection is necessary to ensure that the requesting party is notified of the local child support agency's decision.

Subparagraphs (f)(1) through (5) have been adopted to include the specific information that must be included in the written notice. This information includes: the local child support agencies determination that an adjustment is not appropriate and an explanation of this decision; a statement that the requesting party may file his or her own notice of motion or order to show cause; a statement informing the requesting party of the option to obtain assistance from the Family Law Facilitator and the appropriate address and phone number; and information on the availability of the complaint resolution and state hearing processes. These subparagraphs are necessary to ensure that the requesting party is provided a response to any request for a modification and an explanation of the decision. Furthermore, providing alternative options to the requesting party ensures that the requesting party is aware of any available legal options and provides good customer service.

Subsection (g) has been adopted to require that the local child support agency shall send a copy of any adjusted order to both parties within 10 business days after receipt of the order from the court, unless the court orders otherwise. This subsection is necessary to ensure that both parties are in receipt of any new support order which may supersede the original or most recently adjusted order and to comply with Section 17406(g), FC.

Subsection (h) has been adopted to instruct the local child support agencies on the required steps should it be determined that a valid address is not available for the nonrequesting party.

Subparagraphs (h)(1) through (3) have been adopted to include three specific steps local child support agencies shall take when it has been determined that a valid address is unavailable on the nonrequesting party. These steps include: notification to the requesting party that no valid address is available and that the review and adjustment process will not proceed until a valid address is located; the requirement that within 30 days the local child support agency access all appropriate locate tools available per California Code of Regulations, Title 22, Division 13, Section 113100; and termination of the review and adjustment process. These subparagraphs are necessary because local

child support agencies cannot proceed with a review and adjustment on an obligor if they cannot locate him/her. Service of process is not possible and absent service, the court will not allow the local child support agency to proceed. In addition, these regulations are necessary to ensure that local child support agencies utilize all available locate tools in an effort to locate a valid address on the nonrequesting party.

Subsection (i) has been adopted to specify that once a valid address has been located on the nonrequesting party, the local child support agency shall resume the review and adjustment process and all timeframes become effective the date the address is located. This subsection is necessary to ensure that local child support agencies resume the review and adjustment process promptly and to ensure that these cases do not languish due to the delay in locating a valid address. In addition, this regulation establishes a new effective date for all timeframes associated with the review and adjustment process.

Documents Relied Upon

The Department has relied upon the following documents:

Family Support Division Letter No. 98-02
Family Support Division Letter No. 97-20
Family Support Division Letter No. 94-02
Family Support Division Letter No. 93-22
Policy Consolidation Manual Tab 72 Summary

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6/27/03

STATE OF CALIFORNIA

ECONOMIC AND FISCAL IMPACT STATEMENT

(REGULATIONS AND ORDERS)

See SAM Sections 6600-6680 for Instructions and Code Citations

STD. 399 (Rev. 2-98)

Department Name Child Support Services	Contact Person Carlos Rivera - Program	Telephone Number 916-464-5236
Descriptive Title From Notice Register or Form 400 Chapter 5, Review and Adjustment of Child Support Orders		Notice File Number

ECONOMIC IMPACT STATEMENT

A. ESTIMATED PRIVATE SECTOR COST IMPACTS *(Include calculations and assumptions in the rulemaking file.)*

1. Check the appropriate box(es) below to indicate whether this regulation:

- | | |
|-----------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------|
| <input type="checkbox"/> a. Impacts businesses and/or employees | <input type="checkbox"/> e. Imposes reporting requirements |
| <input type="checkbox"/> b. Impacts small businesses | <input type="checkbox"/> f. Imposes prescriptive instead of performance standards |
| <input type="checkbox"/> c. Impacts jobs or occupations | <input type="checkbox"/> g. Impacts individuals |
| <input type="checkbox"/> d. Impacts California competitiveness | <input checked="" type="checkbox"/> h. None of the above (Explain below. Complete for Fiscal Impact Statement as appropriate). |

h. (cont.)

These regulations interpret, implement and make specific, existing state and federal law that requires review and adjustment of child support orders. Since businesses are already required to have procedures in place to adjust wage assignments due to an adjustment in the child support order, it is perceived that there will be no potential economic impact to businesses.

(If any box in Items a. through g. is checked complete this Economic Impact Statement)

2. Enter the total number of businesses impacted:

Describe the types of businesses (include nonprofits):

Enter the number or percentage of total businesses impacted that are small businesses:

3. Enter the number of businesses that will be created: ___ eliminated:

Explain:

 4. Indicate the geographic extent of impacts: ☐ Statewide ☐ Local or regional (list areas)

5. Enter the number of jobs created: ___ or eliminated: ___ Describe the types of jobs or occupations impacted: ___.
6. Will the regulation affect the ability of California businesses to compete with other states by making it more costly to produce goods or services here? ☐ Yes ☐ No

B. ESTIMATED COSTS *(Include calculations and assumptions in the rulemaking file).*

1. What are the total statewide costs that businesses and vendors may incur to comply with this regulation over its lifetime? \$
- a. Initial costs for a small business: Annual ongoing costs:
b. Initial costs for a typical business: Annual ongoing costs:
c. Initial costs for an individual: Annual ongoing costs:
d. Describe other economic costs that may occur:
2. If multiple industries are impacted, enter the share of total costs for each industry:
3. If the regulation imposes reporting requirements, enter the annual costs a typical business may incur to comply with these requirements (include the dollar amounts to do record keeping, reporting, and other paperwork, whether or not the paperwork must be submitted).
4. Will this regulation directly impact housing costs? ☐ Yes ☐ No If yes, enter the annual dollar cost per housing unit \$_____ and the number of units:_____.
5. Are there comparable Federal regulations? ☐ Yes ☐ No Explain the need for State regulation given the existence or absence of Federal regulations:

C. ESTIMATED BENEFITS *(Include calculations and assumptions in the rulemaking file)*

1. Briefly summarize the benefits that may result from this regulation and who will benefit:
2. Are the benefits the result of: ☐ specific statutory requirements, or ☐ goals developed by the agency based on broad statutory authority? Explain:
3. What are the total statewide benefits from this regulation over its lifetime?

D. ALTERNATIVES TO THE REGULATION *(Include calculations and assumptions in the rulemaking file).*

1. List alternatives considered and describe them below. If no alternatives were considered, explain why not.
2. Summarize the total statewide costs and benefits from this regulation and each alternative considered:

Regulation:	Benefit:	Cost
Alternative 1:	Benefit:	Cost
Alternative 2:	Benefit:	Cost

3. Briefly discuss any quantification issues that are relevant to a comparison of estimated costs and benefits for this regulation or alternatives:
4. Rulemaking law requires agencies to consider performance standards as an alternative if a regulation mandates the use of specific technologies or equipment, or prescribes specific actions or procedures. Were performance standards considered to lower compliance costs?
☐ Yes ☐ No

Explain:

MAJOR REGULATIONS *(Include calculations and assumptions in the rulemaking file)*

1. Will the estimated costs of this regulation to California business enterprises exceed \$10 million? ☐ Yes ☐ No (If no, skip the rest of this section)
2. Briefly describe each equally as effective alternatives, or combination of alternatives, for which a cost-effectiveness analysis was performed:

Alternative 1:

Alternative 2:

3. For the regulation, and each alternative just described, enter the estimated total cost and overall cost-effectiveness ratio:

Regulation: \$_____	Cost-effectiveness ratio:
Alternative 1: \$_____	Cost-effectiveness ratio:
Alternative 2: \$_____	Cost-effectiveness ratio:

FISCAL IMPACT STATEMENT

A. FISCAL EFFECT ON LOCAL GOVERNMENT (*Indicate appropriate boxes 1. through 6. and attach calculations and assumptions of fiscal impact for the current year and two subsequent years.*)

- ☐ 1. Additional expenditures of approximately \$_____ in the current State Fiscal Year which are reimbursable by the State pursuant to Section 6 of Article XIII B of the California Constitution and Sections 17500 et seq. of the Government Code. Funding for this reimbursement:
- ☐ a. is provided in (Item_____ Budget Act of__) or (Chapter____, Statutes of __)
 - ☐ b. will be requested in the _____ Governor's Budget for appropriation in Budget Act of _____.
- ☐ 2. Additional expenditures of approximately \$_____ in the current State Fiscal Year which are not reimbursable by the State pursuant to Section 6 of Article XIII B of the California Constitution and Sections 17500 et seq. of the Government Code because this regulation:
- ☐ a. implements the Federal mandate contained in_____.
 - ☐ b. implements the court mandate set forth by the _____ court in the case of _____ vs._____.
 - ☐ c. implements a mandate of the people of this State expressed in their approval of Proposition No____ at the _____ election.
 - ☐ d. is issued only in response to a specific request from the _____ which is/are the only local entity(s) affected.
 - ☐ e. will be fully financed from the _____ authorized by Section _____ of the Code.
 - ☐ f. provides for savings to each affected unit of local government which will, at a minimum, offset any additional costs to each such unit.
- ☐ 3. Savings of approximately \$_____ annually.
- ☒ 4. No additional costs or savings to any local agency or school district that is required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4, or other nondiscretionary cost or savings imposed on local agencies, because this regulation makes only technical, non-substantive or clarifying changes to current law and regulations.
- ☐ 5. No fiscal impact exists because this regulation does not affect any local entity or program.
- ☐ 6. Other.

B. FISCAL EFFECT ON STATE GOVERNMENT *(Indicate appropriate boxes 1 through 4 and attach calculations and assumptions of fiscal impact for the current year and two subsequent fiscal years)*

- ☐ 1. Additional expenditures of approximately \$_____ in the current State Fiscal Year. It is anticipated that State agencies will:
- ☐ a. be able to absorb these additional costs within their existing budgets and resources.
- ☐ b. request an increase in the currently authorized budget level for the _____ fiscal year.
- ☐ 2. Savings of approximately \$_____ in the current State Fiscal Year.
- ☐ 3. No fiscal impact exists because this regulation does not affect any State agency or program.
- ☒ 4. Other. No additional costs or savings because this regulation makes only technical, non-substantive or clarifying changes to current law and regulations.

C. FISCAL EFFECT ON FEDERAL FUNDING OF STATE PROGRAMS *(Indicate appropriate boxes 1 through 4 and attach calculations and assumptions of fiscal impact for the current year and two subsequent years.)*

- ☐ 1. Additional expenditures of approximately \$_____ in the current State Fiscal Year.
- ☐ 2. Savings of approximately \$_____ in the current State Fiscal Year.
- ☐ 3. No fiscal impact exists because this regulation does not affect any federally funded State agency or program.
- ☒ 4. Other. No additional costs or savings because this regulation makes only technical, non-substantive or clarifying changes to current law and regulations.

SIGNATURE ✍ GARY FUJII	<i>Gary Fujii</i> 2/6/03	TITLE Chief, Financial Planning Section
AGENCY SECRETARY ^{ii[1]} APPROVAL/CONCURRENCE	<i>for - Earl Johnson</i> 4/1/03	DATE Associate Secretary
DEPARTMENT OF FINANCE ^{iii[2]} APPROVAL/CONCURRENCE	PROGRAM BUDGET MANAGER ✍	DATE

- i[1]. The signature attests that the agency has completed the STD 399 according to the instructions in SAM sections 6600-6680, and understands the impacts of the proposed rulemaking. State boards, offices, or departments not under an Agency Secretary must have the form signed by the highest ranking official in the organization.
- ii[2]. Finance approval and signature is required when SAM sections 6050-6057 require completion of the Fiscal Impact Statement in the STD 399. However, Finance must immediately receive a copy of each STD 399 submitted to OAL without Finance signature and Finance may subsequently question the "no fiscal impact" finding of a state agency.

Note:

Currently, review and adjustments procedures are required and these regulations will replace the existing policies and procedures. No additional funding is needed. Local Child Support Agencies are funded for these activities through their basic administration costs, which is listed as item 5178-101-0001 10.01 Child Support Administration of the Governor's Budget.

(1) Adopt Chapter 5, and Section 115500 to read as follows:

Chapter 5. Review and Adjustment of Child Support Orders.

Section 115500. Notification of the Right to Request Review and Adjustment.

(a) Each local child support agency shall provide written notice, at least once every 3 years, of the right to request a review to seek an upward or downward adjustment of a child support order, or an adjustment to include a provision for medical support.

(b) The notice shall be sent to the last known address of each party to a child support order with a current support obligation subject to enforcement by the local child support agency.

(c) The notice shall notify parties of all of the following:

(1) The right to request a review of the current child support obligation for an upward or downward adjustment, or an adjustment to include a provision for medical support.

(2) The requirement that the local child support agency assist each party to a child support order in adjusting child support orders when a change in circumstances exists as specified in Section 115510(c), (d), or

(e). The notice shall include examples of such circumstances as specified in Section 115510(c), (d), or (e).

(3) The timeframe for the local child support agency to file a motion for modification or order to show cause if one of the changes in circumstances exists as outlined in Section 115510(c).

(4) The timeframe for the local child support agency to respond to a request for review and adjustment if the request is denied.

(5) Notification that a request for review and adjustment in an interjurisdictional case, such as a case involving another state, may need to be forwarded to the agency having jurisdiction over the case, for review and adjustment.

(6) The right of the requesting party to file a motion for modification or order to show cause on his or her own if the local child support agency denies a request for review and adjustment. The notice shall inform the obligee/obligor of the option to obtain the assistance of the Family Law Facilitator and shall include the address and public telephone number for the Family Law Facilitator.

(7) The availability of the complaint resolution and state hearing processes pursuant to Chapter 10.

Authority cited: Sections 17306, 17310 and 17312 Family Code
Reference: Section 17401.5, Family Code; 42 U.S.C 666(a)(10); 45 CFR 302.70(a)(10), 303.4(c), and 303.8.

(2) Adopt Section 115510 to read as follows:

Section 115510. Requirements for Conducting Review and Adjustment

(a) Local child support agencies shall review cases to determine if a change in circumstances exists which could alter the amount of child support ordered by the court under the guideline (Family Code Section 4055) when all of the following conditions are met:

(1) Upon oral or written request of a party to a child support order with a current child support obligation; and

(2) The change in circumstances which could alter the amount of the child support is reasonably expected to last more than three months; and

(3) The local child support agency is in receipt of either party's current income and expense information.

(b) When the local child support agency becomes aware, during communication with a party to a child support order with a current child support obligation, that a change in circumstances exists which could alter the amount of the support order, the local child support agency shall ask if the party wants the local child support agency to review the order and, if appropriate, seek an adjustment.

(c) Any change in circumstances or combination of change in circumstances which would result in a change in the child support order, either upward or downward, by at least 20 percent or \$50, whichever is less, shall be considered cause to file a motion for modification or order to show cause to adjust the child support order. These factors may include, but are not limited to:

(1) A change in the obligee or obligor's employment status or income.

(2) A change in parenting time or custody. A court order showing a change in parenting time shall be prima facie evidence of a change in the parenting time.

(3) A change in costs incurred related to the following additional child support costs:

(A) Child care costs related to employment or reasonably necessary education or training for employment skills.

(B) Reasonable uninsured health care costs for the child(ren) as provided in Section 4063, Family Code.

(C) Costs related to the educational or other special needs of the child(ren).

(D) Travel expenses for visitation.

(4) A financial hardship on the obligee or obligor, as defined in Family Code Section 4071, that did not exist at the time the order was established or last adjusted.

(5) The obligee or obligor begins or ceases receiving Unemployment Insurance Benefits, State Disability Insurance, or Worker's Compensation.

(6) Additional child support orders exist for which the obligor is responsible, which were not taken into account when the order of issue was established or last adjusted.

(7) A change in the obligee or obligor's health insurance premium.

(8) The release of the obligee/obligor from incarceration in a county jail, state or federal prison, or court-ordered rehabilitation facility.

(9) The release of the obligee/obligor from a psychiatric facility.

(d) A determination that a child support order does not include a provision for medical support shall be cause for an automatic review and adjustment whether or not the review has been requested by the obligee or obligor.

(e) If the local child support agency becomes aware of any change in circumstances listed below, the local child support agency shall conduct a review of the child support order to determine if the change in circumstance would result in a 20 percent or \$50 change in the child support order. Any of these changes shall be considered cause for review and adjustment whether or not the review has been requested by a party to the child support order and shall be verified by the local child support agency. The circumstances include:

(1) The obligor or obligee is incarcerated in a county jail, state or federal prison, or court-ordered rehabilitation facility and there is no evidence of support potential.

(2) The obligor begins or ceases receipt of Supplemental Security Income/State Supplementary Payment, CalWORKs, or any other public assistance program for which eligibility is determined on the basis of need. If the obligor's sole income is Supplemental Security Income/State Supplementary Payment, the local child support agency shall modify the current order to zero, by notice of

motion, order to show cause, or stipulation, and refer to the case closure

regulations at Section 118203(a)(5)(D) to determine if case closure is appropriate,

(3) The obligor's sole income is Supplemental Security Income/State Supplementary Payment, CalWORKs, or any other public assistance program for which eligibility is determined on the basis of need, and that income was used in determining the amount of the support order. If the obligor's sole income is Supplemental Security Income/State Supplementary Payment, the local child support agency shall modify the current order to zero by notice of motion, order to show cause, or stipulation, and refer to the case closure regulations at Section 118203(a)(5)(D) to determine if case closure is appropriate.

(4) The obligor has a medically verified total and permanent disability with no evidence of support potential. In this situation, the local child support agency shall refer to the case closure regulations at Section 118203(a)(5)(C) to determine if case closure is appropriate.

(5) The obligor is institutionalized in a psychiatric facility and has no evidence of support potential. In this situation, the local child support agency shall refer to the case closure regulations at Section 118203(a)(5)(A) to determine if case closure is appropriate.

(6) The child support order was based on presumed income, and the actual income or income history of the obligor becomes known.

(7) The obligor or obligee's health insurance premium was not included in the guideline (Family Code Section 4055) calculation when the child support was established or last adjusted.

(8) The obligor or obligee is a reservist in the military and is called to active duty.

(f) In conducting the review to determine if any of the adjustment criteria set forth in subsection (c), (d) or (e) are met, the local child support agency shall require the requesting party, if appropriate, to provide relevant income and expense information. In addition, the local child support agency shall request income and expense information from the nonrequesting party or parties. The local child support agency shall not delay the review or filing of the motion for modification or order to show cause due to failure of the nonrequesting party to provide income and expense information.

(g) If the local child support agency does not receive income and expense information from the requesting party, but receives income and expense information from the nonrequesting party, the local child support agency shall treat the income and expense information received from the nonrequesting party as a request for a review and adjustment and proceed with the review.

(h) If the local child support agency determines that a change in circumstances exists as specified in subsection (c), (d), or (e), and the change is reasonably expected to last for more than three months, the local child support agency shall file a motion for modification or order to show cause to seek an adjustment of the order, either upward or downward, as appropriate, or for inclusion of a medical support provision. In lieu of filing a motion for modification or order to show cause, the local child support agency may enter into a stipulation with all necessary parties and present the stipulation to the court.

(i) Notwithstanding subparagraph (h), if an order under review was based on presumed income and meets the criteria set forth in Section 17432 of the Family Code for setting aside judgments, the local child support agency shall pursue a set aside of the child support order.

Authority cited: Sections 17306, 17310 and 17312 Family Code

Reference: Sections 3680.5, 3763(b), 4055, 4062, 4065, 4071, 17400.5, 17406(e), 17432, and 17516 Family Code; 42 U.S.C 666(a)(10), and 45 CFR 302.70(a)(10), and 303.8.

(3) Adopt Section 115520 to read as follows:

Section 115520. Timeframes for Conducting Review and Adjustment.

(a) Within 10 business days of receiving a request for review, the local child support agency shall notify the requesting party in writing, that in order to proceed with the review, the requesting party must provide specified income and expense information. As part of this notice, the local child support agency shall provide any mandatory Judicial Council forms that the requesting party will need to complete. The local child support agency shall inform the requestor that no action will be taken on the request until the income and expense information is returned to the local child support agency and that the effective date of the request will be the date the income and expense information is received by the local child support agency.

(b) The local child support agency shall request income and expense information from the nonrequesting party at the same time income and expense information is requested from the requesting party, and within the same timeframe specified in subsection (a) above.

(c) Within 10 business days of receipt of the necessary income and expense information, the local child support agency shall:

(1) Calculate the guideline (Family Code Section 4055) amount based on the income and expense information available on the obligee/obligor to determine if a change in the amount of the support order would result in a 20 percent or \$50 change, either upward or downward, whichever is less, OR:

(2) If the income and expense information from the requesting party is incomplete, notify the requesting party that complete income and expense information is required prior to the commencement of a review of the child support order.

(d) If the nonrequesting party fails to provide the income and expense information and the local child support agency has no income and expense information in the case file and is unable to locate information on the nonrequesting party through automated locate tools and the Federal Case Registry, within 10 days of receipt of the requesting party's income and expense information, the local child support agency shall presume that there is a 20 percent or \$50, whichever is less, upward or downward change in the child support order and proceed with the adjustment process.

(e) Within 10 business days of the determination that a change in circumstances exists as specified in Section 115510(c), (d), or (e), the local child support agency shall file with the court, a motion for modification or order to show cause. The local child support agency shall serve the notice of motion for modification or order to show cause on the non-requesting party at least 30 calendar days prior to the scheduled hearing date. Service shall be conducted in accordance with the requirements of Section 1013, Code of Civil Procedure. At least 30 days prior to the hearing, the local child support agency shall provide the requesting party with a notice of the time, date, and location of the hearing. The notice to the requesting party shall be sent in accordance with the requirements of Section 17406, Family Code.

(f) If the facts set forth in the review and the income and expense information do not indicate that a change in circumstances exists as specified in Section 115510 (c), (d), or (e), the local child support agency shall send written notice to the requesting party. The notice shall be sent within 10 business days of the determination that the request does not satisfy the change in circumstances criteria, and shall include the following:

(1) The local child support agency's determination that it will not pursue an adjustment of the child support order.

(2) An explanation of why the request for review does not satisfy the adjustment criteria.

(3) A statement that the party may file his or her own notice of motion or order to show cause for adjustment of the child support order.

(4) A statement informing the requesting party of the option to obtain the assistance of the Family Law Facilitator, including the address and public telephone number for the Family Law Facilitator.

(5) Information on the availability of the complaint resolution and state hearing processes pursuant to Chapter 10.

(g) The local child support agency shall send a copy of the adjusted court order to the obligor and the obligee within 10 business days after receipt of the order from the court, unless the court orders otherwise.

(h) If at any time the local child support agency determines that a valid address is not available for the nonrequesting party, the local child support agency shall do all of the following:

(1) Notify the requesting party that no valid address is available on the nonrequesting party and the review and adjustment process will not proceed until a valid address is located.

(2) Access all appropriate locate tools available per Section 113100 within 30 days.

(3) If the local child support agency is unable to locate the nonrequesting party in accordance with Section 113100, the local child support agency shall terminate the review and adjustment process immediately.

(i) Once the nonrequesting party has been located, the review and adjustment timeframes resume effective with the date an address for the nonrequesting party is located.

Authority cited: Sections 17306, 17310 and 17312 Family Code

Reference: Section 1013, Code of Civil Procedure; Section 4055, 17401.5, and 17406(g) Family Code; 42 U.S.C 666(a)(10), and 45 CFR 302.70(a)(10) and 303.8.

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- (4) Repeal Manual of Policies and Procedures Section 12-223.2 through .22 as follows:

12-223 PROGRAM PERFORMANCE STANDARDS – ESTABLISHMENT AND MODIFICATION OF CHILD SUPPORT ORDERS

- .1 The district attorney shall attempt to establish a child support order for cases in which a child support order does not exist.

.11 When petitioning the court for child support, the district attorney shall use the statutory child support guidelines in effect at that time to determine the amount of child support sought.

.12 Establishment of child support orders shall also be done in accordance with the standards specified in Section 12-106.

~~.2 Upon a written request for modification of a child support order the district attorney shall:~~

~~.21 Review the case.~~

~~.22 Respond to the request in writing within 90 calendar days of the date the request is postmarked.~~

NOTE: Authority cited: Sections 10553, and 10554, ~~11475, and 11479.5~~, Welfare and Institutions Code.

Reference: ~~Sections 11479.5 and 15200.8, Welfare and Institutions Code; 45 CFR 302.50(a) and 303.4(b) and (d); Section 4720.1, California Civil Code; and 42 U.S.C. 466(a)(10)(A).~~

INITIAL STATEMENT OF REASONS

Assembly Bill (AB) 196, (Chapter 478, Statutes of 1999), and Senate Bill (SB) 542, (Chapter 480, Statutes of 1999), created the new Department of Child Support Services (Department) within the California Health and Human Services Agency to administer all services and perform all functions necessary to establish, collect and distribute child support in the State of California. This legislation also designated the Department as the single state organizational unit that has the duty to administer the Title IV-D state plan for securing child and spousal support, medical support, and determining paternity.

Prior to the enactment of AB 196 and SB 542, the California Department of Social Services (CDSS) had statutory responsibility for these services, functions, and duties. CDSS utilized regulations contained in its Manual of Policies and Procedures (MPP), which is incorporated by reference into Title 22, California Code of Regulations (CCR), to administer the child support program. In addition to the MPP, CDSS utilized policy letters to clarify its regulations and those of the federal Office of Child Support Enforcement. Section 17310, Family Code (FC), specifies that CDSS' regulations are to remain in effect and be fully enforceable by the Department, and permits the Department to readopt, amend, or repeal CDSS' regulations as necessary and appropriate. Section 17306(e), FC, permits the Department to implement applicable provisions of Division 17 of the FC through Family Support Division letters or similar instructions from the Director until December 31, 2004. The Department will continue to utilize the MPP and policy letters in its administration of California's child support program until such time as it adopts its own regulations for inclusion in new Division 13, of Title 22, CCR.

Section 17306(b), FC, requires the Department to develop uniform forms, policies and procedures to be employed statewide by all local child support agencies. This statute also provides the authority to adopt the regulations on an emergency basis. These regulations are necessary to implement Section 17306, FC.

In accordance with Section 17306(d), FC, the Department consulted with the California Family Support Council, the California State Association of Counties, labor organizations, custodial and noncustodial parent advocates, child support commissioners, family law facilitators, and relevant committees of the Legislature in developing the policies that are reflected in these regulations. This collaboration resulted in the Policies, Procedures, and Practices (P3) Project. The explicit purposes of the P3 Project were to: 1) make recommendations to the Department on how to implement new state requirements; 2) design a child support state hearing process; and 3) improve customer services throughout the California Child Support Program. The explicit purpose of the P3 Project was to encourage interested parties to sit down together, in some instances for the first time, to discuss their concerns, refine ideas, and attempt to come to consensus on uniform policies, procedures, and practices that the Department could incorporate into its regulations.

These regulations interpret and implement Section 1013, Code of Civil Procedure; Sections 3680.5, 3763(b), 4055, 4062, 4065, 4071, 17400.5, 17401.5, 17406(e) and (g), 17432, and 17516 FC; 42 United States Code (USC), Section 666(a)(10), and 45 Code of Federal Regulations (CFR), Sections 302.70(a)(10), 303.4(c), and 303.8 by specifying procedures necessary for the administration of the child support enforcement program in the area of review and adjustment of child support orders.

Chapter 5, Review and Adjustment

Chapter 5 has been adopted and entitled “Review and Adjustment” to designate the chapter within Division 13 in which review and adjustment requirements and procedures are contained. This entire set of regulations establishes the procedures required by 42 USC, 666(a)(10), 45 CFR, Section 302.70(a)(10), 303.4(c), and 303.8. In developing the proposed regulations, the Department, the Child Support Directors Association (CSDA), the Office of Child Support Enforcement, and various stakeholders met and, through a collaborative process, reached a consensus on the process and procedures, including timeframes, for the review and adjustment of child support orders in accordance with Section 17306(d), FC. Many of the requirements contained in this chapter were previously contained in Family Support Division Letter No. 94-02. This letter will become obsolete with the adoption of these regulations. These regulations also ensure that local child support agencies seek modifications when needed as required by Section 3680.5, FC and that uniform policies and procedures are employed by the local child support agencies in accordance with Section 17306(b), FC.

Section 115500. Notification of the Right to Request Review and Adjustment.

This section has been adopted to interpret, implement, and make specific Sections 17401.5, FC; 42 United States Code, 666(a)(10), and 45 CFR Sections 302.70(a)(10), 303.4(c), and 303.8 by specifying the requirements necessary for notification of the right to request a review and adjustment of a child support order.

Subsection (a) has been adopted to specify the requirement that all local child support agencies are responsible for notifying all parents subject to a current California child support order, of their right to request a review of their current support order at least once every three years. The adoption of this subsection is necessary to implement federal law at 42 USC, Section 666(a)(10)(C) and 45 CFR, Section 303.4(c) and 303.8(b)(6).

Subsection (b) has been adopted to specify that the notice referred to in subsection (a), shall be sent to the last known address of each party to a child support order. The adoption of this subsection is necessary to implement federal law at 42 USC, Section 666(a)(10). This regulation is also necessary to specify where the notice must be sent to ensure that every effort is made to contact each party subject to a child support order.

Subparagraphs (c)(1) through (7) have been adopted to specify the information that is required to be contained in the notification referred to in subsections (a) and (b). The

contents of this notice are intended to give parties information on the LCSAs role and responsibilities in conducting the review and adjustment, the right of a party to seek an adjustment on his or her own, the availability of the Family Law Facilitator, and the right to file a complaint if the party is dissatisfied with the LCSAs actions. The adoption of these subparagraphs are necessary to implement federal and state law at Section 17401.5, FC; 42 USC 666(a)(10), and 45 CFR 303.8

Section 115510. Requirements for Conducting Review and Adjustment.

This section has been adopted to interpret, implement, and make specific California Code of Regulations, Title 22, Division 13, Section 118203(a)(5); Sections 3680.5, 3763(b), 4055, 4062, 4065, 4071, 17400.5, 17406(e), 17432, and 17516 FC; 42 USC 666(a)(10), and 45 CFR 302.70(a)(10), and 303.8 by specifying when a review and adjustment is required and the type of information required in order to complete a review and adjustment.

Subsection (a) has been adopted to specify that local child support agencies must review cases to determine if a change in circumstances exists that could affect the amount of child support ordered by the court in accordance with the statewide uniform guideline, Section 4055, FC. The adoption of this subsection is necessary to be in compliance with federal and state laws at Section 3680.5 FC, 42 USC 666(a)(10), and 45 CFR 302.70(a)(10). This subsection provides a preface to subparagraphs (1)-(3) which make specific the conditions which must be met by the requesting party in order for a local child support agency to review a case for possible adjustment.

Subparagraphs (a)(1) through (3) have been adopted to specify the three conditions that, if met, would require a local child support agency to review a child support case for possible adjustment : 1) an oral or written request from a party to a child support order; 2) the change in circumstances must be expected to last more than three months; and 3) the receipt of either party's income and expense information. These subparagraphs are necessary to implement 42 USC, 666(a)(10); 45 CFR, Sections 302.70(a)(10) and 303.8.

Subsection (b) has been adopted to specify the requirement that local child support agencies offer child support services when a party to any child support order indicates a change that could be the basis of an adjustment but the party has not directly requested a review of the support order . The adoption of this subsection is necessary to ensure that any party to a child support order is aware of the availability of child support services when an adjustment may be necessary.

Subsection (c) has been adopted to specify the requirement that local child support agencies file a motion for modification or order to show cause when the review shows a change in the support order of 20 percent or \$50, whichever is less, upward or downward. The adoption of this subsection is necessary to establish a standard for determining if a child support order should be modified from the existing order. 45, CFR, Section 303.8(c) expressly provides that state's may establish a quantitative

standard based upon a fixed dollar amount or percentage. This regulation implements that provision.

Subparagraphs (c)(1) through (9) provide examples of changes in circumstances that could result in a change in the order of 20 percent or \$50. These items are taken into consideration in calculating support under the statewide uniform guidelines, Section 4055, FC. Subparagraph (3) implements Section 4062, FC; subparagraph (4) implements Section 4071, FC.

Subsection (d) has been adopted to specify that if a child support order does not include a provision for medical support, the order shall automatically be reviewed for adjustment. The adoption of this subsection is necessary to be in compliance with 45 CFR, Section 303.8(d) and Section 3763(b), FC which allows for the modification of orders where a provision for medical support had not been included.

Subsection (e) has been adopted to specify that local child support agencies shall initiate reviews and adjustments of child support cases, regardless of whether or not the review has been requested. The adoption of this subsection is necessary when the change of circumstance is such that the parent is effectively unable to make a formal request, or the circumstances so obviously warrant a change in the order because the obligor clearly could not meet the obligation. In addition, the adoption of this subsection is necessary to be in compliance with Section 3680.5, FC.

Subparagraph (e)(1) has been adopted to specify that incarceration of the obligor or obligee, with no support potential, is cause for review and adjustment of a child support order. The adoption of this subparagraph is necessary to comply with Section 3680.5, FC.

Subparagraph (e)(2) has been adopted to specify that commencement or discontinuance of certain public assistance programs is cause for review and adjustment of a child support order. The adoption of this subparagraph is necessary to comply with Sections 17400.5 and 17516 FC. Furthermore, California Code of Regulations, Title 22, Division 13, Section 118203(a)(5)(D) requires case closure if the noncustodial parent has no earnings or assets which could be levied or attached for support and the noncustodial parent cannot pay support for the duration of the child's minority because the noncustodial parent's sole income is derived from Supplemental Security Income/State Supplementary Payment.

Subparagraph (e)(3) has been adopted to specify that if the sole income that was used in determining the amount of the obligor's support order was based on income from a public assistance program, and that sole income is Supplemental Security Income/State Supplementary Payment, or any other public assistance program, the local child support agency shall modify the order. The adoption of this subparagraph is necessary to comply with Section 17400.5 and 17516, FC. This regulation makes a cross reference to the case closure guidelines. The reference to case closure is necessary because cases in which the obligor's sole income is derived from Supplemental Security

Income/State Supplementary Payment must be closed pursuant to California Code of Regulations, Title 22, Division 13, Section 118203(a)(5)(D).

Subparagraph (e)(4) has been adopted to specify that local child support agencies must review child support orders for adjustment when it has been determined that the obligor has a medically verified total and permanent disability with no evidence of support potential. This subparagraph also refers to the case closure regulations. The adoption of this subparagraph is necessary to comply with California Code of Regulations, Title 22, Division 13, Section 118203(a)(5)(C) which may require case closure in this situation.

Subparagraph (e)(5) has been adopted to specify that local child support agencies must review child support orders for adjustment when it has been determined that the obligor is institutionalized in a psychiatric facility and has no evidence of support potential. This subsection also refers to the case closure regulations. The adoption of this subparagraph is necessary to comply with California Code of Regulations, Title 22, Division 13, Section 118203(a)(5)(A) which may require case closure in this situation.

Subparagraph (e)(6) has been adopted to specify that local child support agencies must review child support orders for adjustment when it has been determined that an order was based on presumed income and the actual income becomes known. Because courts may allow child support orders to be based on presumed income when the actual income of the obligor is unknown, it is important that local child support agencies review these types of orders upon becoming aware of the obligors actual income. This is necessary to ensure correct and accurate orders are being issued.

Subparagraph (e)(7) has been adopted to specify that local child support agencies must review child support orders for adjustment if the obligor or obligees health insurance premium was not considered when the child support was established or last adjusted. The adoption of this subparagraph is necessary to implement Section 3763(b), FC.

Subparagraph (e)(8) has been adopted to specify that local child support agencies must review child support orders for obligee/obligor reservists in the military when called to active duty. The adoption of this subparagraph is necessary because reservists called to active duty may experience a change in salary if required to take a leave of absence from current employment. This could result in a reduction or increase in salary.

Subsection (f) has been adopted to require local child support agencies to obtain income and expense information from the requesting party, if appropriate, to determine if any of the adjustment criteria in subsection (c), (d), or (e) apply. The local child support agency is required to request such information from the nonrequesting party. However, this subsection specifies that the local child support agency shall not delay moving forward with a review and adjustment due to the failure of the nonrequesting party to provide the income and expense information. In fact, if the local child support agency is initiating a review and adjustment pursuant to the provisions of subsection (e), the local child support agency is not required to obtain income and expense information

from either party because the local child support agency is required to verify the change in circumstance that warrants the review and adjustment.

The adoption of this subsection is necessary to enable the local child support agency to proceed with a review and adjustment. In order to do this, the local child support agency needs income and expense information from at least one party unless the local child support agency is acting on a review and adjustment due to a change in circumstances as outlined in subsection (e), in which case income and expense information is not required. In many cases the nonrequesting party fails to return the necessary income and expense information. This subsection allows the local child support agency to proceed with the review once the requesting party submits the necessary information.

Subsection (g) has been adopted to specify that if the requesting party does not respond to the request for income and expense information, but the nonrequesting party does, the local child support agency shall then consider receipt of the nonrequesting party's income and expense information as a request for a review and adjustment and proceed with the review. The adoption of this subsection is necessary to carry out the goal of this regulatory process by ensuring accurate orders. This subsection also implements Section 3680.5, FC.

Subsection (h) has been adopted to specify that if the local child support agency determines that the change in circumstances which results in the change in the support order is expected to last for more than three months, the local child support agency must file a motion for modification or order to show cause or prepare a stipulation order to modify the support. The adoption of this subsection is necessary to ensure that local child support agencies take appropriate action upon becoming aware of the need for a review and adjustment to a child support order. The three month time period is a reasonable amount of time for a change in circumstances to remain in effect in order to warrant an adjustment to the order. This subsection also implements Section 4065, FC relating to stipulations of child support orders.

Subsection (i) has been adopted to specify that local child support agencies must pursue a set aside or relief from support orders instead of an adjustment when the support order was based on presumed income and a set aside would be appropriate. This subsection is necessary to interpret and implement Section 17432, FC.

Section 115520. Timeframes for Conducting Review and Adjustment.

This section has been adopted to interpret, implement, and make specific Section 1013, Code of Civil Procedure; Sections 4055, 17401.5, and 17406(g) FC; 42 USC 666(a)(10), and 45 CFR 302.70(a)(10) and 303.8 by specifying the timeframes for acting on a review and adjustment and the receipt of specific information necessary to conduct the review and adjustment.

Subsections (a) and (b) have been adopted to specify that within 10 business days of receiving a request for a review and adjustment, the local child support agency seek income and expense information from both the requesting and nonrequesting parties. The adoption of these subsections are necessary to ensure that the local child support agency is in receipt of the most current income and expense information in order to determine if a change in circumstances has occurred since the support order was last established. The local child support agency is unable to move forward without at least one party's income and expense information. The 10 business day timeframe is considered a reasonable amount of time for the local child support agency to act on the request.

Subsection (c) has been adopted to establish a 10 business day timeframe for the local child support agency to act upon receipt of the income and expense information from the party(ies). The adoption of this subsection is necessary to ensure consistent and uniform applications statewide and to ensure that the review and adjustment process is conducted within the timeline requested by 45, CFR, Section 303.8(e).

Subparagraph (c)(1) has been adopted to require local child support agencies to conduct a child support calculation to see if the change in circumstances results in a change in the order requiring the local child support agency to adjust the order. The adoption of this subparagraph is necessary to ensure that the local child support agencies use the statewide uniform guideline pursuant to Section 4055, FC.

Subparagraph (c)(2) has been adopted to specify that if the local child support agency receives an incomplete income and expense declaration from the requesting party, the local child support agency must notify the requestor that a complete income and expense declaration must be received prior to the commencement of the review. The adoption of this subparagraph is necessary to ensure the receipt of complete income and expense declarations. The local child support agency cannot act on incomplete income and expense declarations.

Subsection (d) has been adopted to specify that if the nonrequesting party fails to provide the income and expense information and the local child support agency does not have this information on file and is unable to obtain this information through automated locate efforts, within 10 days of receipt of the requesting party's income and expense information, the local child support agency shall presume that a 20 percent or \$50, upward or downward, change in the child support order, whichever is less, exists and shall proceed with the adjustment process. This subsection is necessary to provide a policy for handling difficult cases where the nonrequesting party is uncooperative and no income and expense information is available to even make a presumption on the nonrequesting party's situation. This is necessary to ensure that the nonrequesting party cannot stand in the way of getting the issue before the court for a determination of whether the child support order is accurate.

Subsection (e) has been adopted to specify the timeframes and requirements for filing the proper judicial forms with the courts should the local child support agency determine

that the case qualifies for an adjustment, the timeframes for service of the nonrequesting party, and timeframes for notification of the hearing to the requesting party. This subsection is necessary to ensure that the local child support agency acts timely to file a notice of motion or order to show cause once a determination of a change in circumstances exists and to comply with the timeframes required in 42, USC, Section 666(a)(10)(A)(ii).

Subsection (f) has been adopted to specify that the local child support agency is required to send written notice to the requesting party if it is determined that a change in circumstances does not exist. The written notice shall be sent within 10 business days of the determination that a change in circumstances does not exist. This subsection is necessary to ensure that the requesting party is notified of the local child support agency's decision.

Subparagraphs (f)(1) through (5) have been adopted to include the specific information that must be included in the written notice. This information includes: the local child support agencies determination that an adjustment is not appropriate and an explanation of this decision; a statement that the requesting party may file his or her own notice of motion or order to show cause; a statement informing the requesting party of the option to obtain assistance from the Family Law Facilitator and the appropriate address and phone number; and information on the availability of the complaint resolution and state hearing processes. These subparagraphs are necessary to ensure that the requesting party is provided a response to any request for a modification and an explanation of the decision. Furthermore, providing alternative options to the requesting party ensures that the requesting party is aware of any available legal options and provides good customer service.

Subsection (g) has been adopted to require that the local child support agency shall send a copy of any adjusted order to both parties within 10 business days after receipt of the order from the court, unless the court orders otherwise. This subsection is necessary to ensure that both parties are in receipt of any new support order which may supersede the original or most recently adjusted order and to comply with Section 17406(g), FC.

Subsection (h) has been adopted to instruct the local child support agencies on the required steps should it be determined that a valid address is not available for the nonrequesting party.

Subparagraphs (h)(1) through (3) have been adopted to include three specific steps local child support agencies shall take when it has been determined that a valid address is unavailable on the nonrequesting party. These steps include: notification to the requesting party that no valid address is available and that the review and adjustment process will not proceed until a valid address is located; the requirement that within 30 days the local child support agency access all appropriate locate tools available per California Code of Regulations, Title 22, Division 13, Section 113100; and termination of the review and adjustment process. These subparagraphs are necessary because local

child support agencies cannot proceed with a review and adjustment on an obligor if they cannot locate him/her. Service of process is not possible and absent service, the court will not allow the local child support agency to proceed. In addition, these regulations are necessary to ensure that local child support agencies utilize all available locate tools in an effort to locate a valid address on the nonrequesting party.

Subsection (i) has been adopted to specify that once a valid address has been located on the nonrequesting party, the local child support agency shall resume the review and adjustment process and all timeframes become effective the date the address is located. This subsection is necessary to ensure that local child support agencies resume the review and adjustment process promptly and to ensure that these cases do not languish due to the delay in locating a valid address. In addition, this regulation establishes a new effective date for all timeframes associated with the review and adjustment process.

Documents Relied Upon

The Department has relied upon the following documents:

Family Support Division Letter No. 98-02
Family Support Division Letter No. 97-20
Family Support Division Letter No. 94-02
Family Support Division Letter No. 93-22
Policy Consolidation Manual Tab 72 Summary

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6/27/03

STATE OF CALIFORNIA

ECONOMIC AND FISCAL IMPACT STATEMENT

(REGULATIONS AND ORDERS)

See SAM Sections 6600-6680 for Instructions and Code Citations

STD. 399 (Rev. 2-98)

Department Name Child Support Services	Contact Person Carlos Rivera - Program	Telephone Number 916-464-5236
Descriptive Title From Notice Register or Form 400 Chapter 5, Review and Adjustment of Child Support Orders		Notice File Number

ECONOMIC IMPACT STATEMENT

A. ESTIMATED PRIVATE SECTOR COST IMPACTS *(Include calculations and assumptions in the rulemaking file.)*

1. Check the appropriate box(es) below to indicate whether this regulation:

- | | |
|-----------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------|
| <input type="checkbox"/> a. Impacts businesses and/or employees | <input type="checkbox"/> e. Imposes reporting requirements |
| <input type="checkbox"/> b. Impacts small businesses | <input type="checkbox"/> f. Imposes prescriptive instead of performance standards |
| <input type="checkbox"/> c. Impacts jobs or occupations | <input type="checkbox"/> g. Impacts individuals |
| <input type="checkbox"/> d. Impacts California competitiveness | <input checked="" type="checkbox"/> h. None of the above (Explain below. Complete for Fiscal Impact Statement as appropriate). |

h. (cont.)

These regulations interpret, implement and make specific, existing state and federal law that requires review and adjustment of child support orders. Since businesses are already required to have procedures in place to adjust wage assignments due to an adjustment in the child support order, it is perceived that there will be no potential economic impact to businesses.

(If any box in Items a. through g. is checked complete this Economic Impact Statement)

2. Enter the total number of businesses impacted:

Describe the types of businesses (include nonprofits):

Enter the number or percentage of total businesses impacted that are small businesses:

3. Enter the number of businesses that will be created: ___ eliminated:

Explain:

4. Indicate the geographic extent of impacts: ☐ Statewide ☐ Local or regional (list areas)

5. Enter the number of jobs created: ___ or eliminated: ___ Describe the types of jobs or occupations impacted: ___.
6. Will the regulation affect the ability of California businesses to compete with other states by making it more costly to produce goods or services here? ☐ Yes ☐ No

B. ESTIMATED COSTS *(Include calculations and assumptions in the rulemaking file).*

1. What are the total statewide costs that businesses and vendors may incur to comply with this regulation over its lifetime? \$
- a. Initial costs for a small business: Annual ongoing costs:
b. Initial costs for a typical business: Annual ongoing costs:
c. Initial costs for an individual: Annual ongoing costs:
d. Describe other economic costs that may occur:
2. If multiple industries are impacted, enter the share of total costs for each industry:
3. If the regulation imposes reporting requirements, enter the annual costs a typical business may incur to comply with these requirements (include the dollar amounts to do record keeping, reporting, and other paperwork, whether or not the paperwork must be submitted).
4. Will this regulation directly impact housing costs? ☐ Yes ☐ No If yes, enter the annual dollar cost per housing unit \$_____ and the number of units:_____.
5. Are there comparable Federal regulations? ☐ Yes ☐ No Explain the need for State regulation given the existence or absence of Federal regulations:

C. ESTIMATED BENEFITS *(Include calculations and assumptions in the rulemaking file)*

1. Briefly summarize the benefits that may result from this regulation and who will benefit:
2. Are the benefits the result of: ☐ specific statutory requirements, or ☐ goals developed by the agency based on broad statutory authority? Explain:
3. What are the total statewide benefits from this regulation over its lifetime?

D. ALTERNATIVES TO THE REGULATION *(Include calculations and assumptions in the rulemaking file).*

1. List alternatives considered and describe them below. If no alternatives were considered, explain why not.
2. Summarize the total statewide costs and benefits from this regulation and each alternative considered:

Regulation:	Benefit:	Cost
Alternative 1:	Benefit:	Cost
Alternative 2:	Benefit:	Cost

3. Briefly discuss any quantification issues that are relevant to a comparison of estimated costs and benefits for this regulation or alternatives:
4. Rulemaking law requires agencies to consider performance standards as an alternative if a regulation mandates the use of specific technologies or equipment, or prescribes specific actions or procedures. Were performance standards considered to lower compliance costs?
☐ Yes ☐ No

Explain:

MAJOR REGULATIONS *(Include calculations and assumptions in the rulemaking file)*

1. Will the estimated costs of this regulation to California business enterprises exceed \$10 million? ☐ Yes ☐ No (If no, skip the rest of this section)
2. Briefly describe each equally as effective alternatives, or combination of alternatives, for which a cost-effectiveness analysis was performed:

Alternative 1:

Alternative 2:

3. For the regulation, and each alternative just described, enter the estimated total cost and overall cost-effectiveness ratio:

Regulation: \$_____	Cost-effectiveness ratio:
Alternative 1: \$_____	Cost-effectiveness ratio:
Alternative 2: \$_____	Cost-effectiveness ratio:

FISCAL IMPACT STATEMENT

A. FISCAL EFFECT ON LOCAL GOVERNMENT (*Indicate appropriate boxes 1. through 6. and attach calculations and assumptions of fiscal impact for the current year and two subsequent years.*)

- ☐ 1. Additional expenditures of approximately \$_____ in the current State Fiscal Year which are reimbursable by the State pursuant to Section 6 of Article XIII B of the California Constitution and Sections 17500 et seq. of the Government Code. Funding for this reimbursement:
- ☐ a. is provided in (Item_____ Budget Act of__) or (Chapter____, Statutes of __)
 - ☐ b. will be requested in the _____ Governor's Budget for appropriation in Budget Act of _____.
- ☐ 2. Additional expenditures of approximately \$_____ in the current State Fiscal Year which are not reimbursable by the State pursuant to Section 6 of Article XIII B of the California Constitution and Sections 17500 et seq. of the Government Code because this regulation:
- ☐ a. implements the Federal mandate contained in_____.
 - ☐ b. implements the court mandate set forth by the _____ court in the case of _____ vs._____.
 - ☐ c. implements a mandate of the people of this State expressed in their approval of Proposition No____ at the _____ election.
 - ☐ d. is issued only in response to a specific request from the _____ which is/are the only local entity(s) affected.
 - ☐ e. will be fully financed from the _____ authorized by Section _____ of the Code.
 - ☐ f. provides for savings to each affected unit of local government which will, at a minimum, offset any additional costs to each such unit.
- ☐ 3. Savings of approximately \$_____ annually.
- ☒ 4. No additional costs or savings to any local agency or school district that is required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4, or other nondiscretionary cost or savings imposed on local agencies, because this regulation makes only technical, non-substantive or clarifying changes to current law and regulations.
- ☐ 5. No fiscal impact exists because this regulation does not affect any local entity or program.
- ☐ 6. Other.

B. FISCAL EFFECT ON STATE GOVERNMENT *(Indicate appropriate boxes 1 through 4 and attach calculations and assumptions of fiscal impact for the current year and two subsequent fiscal years)*

- ☐ 1. Additional expenditures of approximately \$_____ in the current State Fiscal Year. It is anticipated that State agencies will:
- ☐ a. be able to absorb these additional costs within their existing budgets and resources.
- ☐ b. request an increase in the currently authorized budget level for the _____ fiscal year.
- ☐ 2. Savings of approximately \$_____ in the current State Fiscal Year.
- ☐ 3. No fiscal impact exists because this regulation does not affect any State agency or program.
- ☒ 4. Other. No additional costs or savings because this regulation makes only technical, non-substantive or clarifying changes to current law and regulations.

C. FISCAL EFFECT ON FEDERAL FUNDING OF STATE PROGRAMS *(Indicate appropriate boxes 1 through 4 and attach calculations and assumptions of fiscal impact for the current year and two subsequent years.)*

- ☐ 1. Additional expenditures of approximately \$_____ in the current State Fiscal Year.
- ☐ 2. Savings of approximately \$_____ in the current State Fiscal Year.
- ☐ 3. No fiscal impact exists because this regulation does not affect any federally funded State agency or program.
- ☒ 4. Other. No additional costs or savings because this regulation makes only technical, non-substantive or clarifying changes to current law and regulations.

SIGNATURE ✍ GARY FUJII	<i>Gary Fujii</i> 2/6/03	TITLE Chief, Financial Planning Section
AGENCY SECRETARY ^{ii[1]} APPROVAL/CONCURRENCE	<i>for - Earl Johnson</i> 4/1/03	DATE Associate Secretary
DEPARTMENT OF FINANCE ^{iii[2]} APPROVAL/CONCURRENCE	PROGRAM BUDGET MANAGER ✍	DATE

- i[1]. The signature attests that the agency has completed the STD 399 according to the instructions in SAM sections 6600-6680, and understands the impacts of the proposed rulemaking. State boards, offices, or departments not under an Agency Secretary must have the form signed by the highest ranking official in the organization.
- ii[2]. Finance approval and signature is required when SAM sections 6050-6057 require completion of the Fiscal Impact Statement in the STD 399. However, Finance must immediately receive a copy of each STD 399 submitted to OAL without Finance signature and Finance may subsequently question the "no fiscal impact" finding of a state agency.

Note:

Currently, review and adjustments procedures are required and these regulations will replace the existing policies and procedures. No additional funding is needed. Local Child Support Agencies are funded for these activities through their basic administration costs, which is listed as item 5178-101-0001 10.01 Child Support Administration of the Governor's Budget.